

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Andrew Wayne Clarke,

Civil No. 15-3191 (DWF/TNL)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Steve Hammer/MCF-Stillwater Warden,

Respondent.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Tony N. Leung dated October 6, 2015. (Doc. No. 12.) No objections have been filed to that Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. Based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

ORDER

1. Magistrate Judge Tony N. Leung's October 6, 2015 Report and Recommendation (Doc. No. [12]) is **ADOPTED**.
2. Clark's petition for a writ of habeas corpus (Doc. No. [1]) is **DENIED**.
3. Clark should NOT be granted a Certificate of Appealability.
4. Clarke's motion for appointment of counsel (Doc. No. [8]) is **DENIED** as moot.

5. Petitioner's Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. No. [2]) is **DENIED AS MOOT**.

6. This action is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 13, 2016

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge